

2017 Legislative Session State Water Resources Control Board High Priority Bills – Signed and Vetoed October 16, 2017

HIGH PRIORITY BILLS—SIGNED INTO LAW

AB 133 (Committee on Budget) Cannabis Regulation

Chapter 253, Statutes of 2017

This budget trailer bill makes various technical and clarifying changes necessary to implement the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Among its provisions, the bill provides cannabis growers additional time to submit to the State Water Board an application for a water permit, information related to an existing water right, or documentation that a water right permit is not required, in order to be able to qualify for a cannabis cultivation license issued by the California Department of Food and Agriculture.

AB 277 (Mathis) Water and Wastewater Loan and Grant Program

Chapter 438, Statutes of 2017

This bill authorizes the State Water Board to establish a program to provide funding, to the extent it is available, for counties and qualified non-profits to award grants and low-interest loans to eligible low-income homeowners and small water systems for a variety of drinking water and wastewater projects, including connecting service lines from a water or wastewater system to the applicants' residence, paying connection fees, paying to close abandoned septic tanks and water wells to protect health and safety, improving existing groundwater wells, and installing water treatment systems.

AB 339 (Mathis) State Water Pollution Cleanup and Abatement Account

Chapter 439, Statutes of 2017 (This bill was sponsored by the State Water Board).

This bill provides continued funding for emergency drinking water projects by; 1) deleting the July 1, 2018 sunset date of provisions in existing law which authorize the State Water Board to provide grants from the Cleanup and Abatement Account to address urgent drinking water needs, even if the need is not related to a discharge of waste, 2) authorizing the State Water Board to make loans from the Cleanup and Abatement Account to address urgent drinking water needs in communities that are not disadvantaged, and 3) making various technical changes to allow for the more effective management of the Cleanup and Abatement Account.

AB 355 (Chu) Water pollution: enforcement

Chapter 524, Statutes of 2017 (This bill was informally sponsored by the State Water Board).

This bill: 1) authorizes the State Water Board to impose administrative civil penalties for violations of underground storage tank requirements, 2) expands the number of communities that can be eligible to conduct a compliance project, in lieu of paying mandatory minimum penalties for water quality violations, by increasing the population criteria from less than 10,000 to less than 20,000, and 3) amends the Water Code to synchronize various enforcement related reporting requirements.

AB 367 (Obernolte) Water supply: building permits

Chapter 612, Statutes of 2017

This bill clarifies a provision of recently enacted legislation that prohibits local governments from issuing building permits for proposed new residential developments where the water supply would be provided through hauled water, bottled water, a water-vending machine, or a retail water facility. Specifically, the bill clarifies a provision in existing law which states that the prohibition does not apply to a residence that will be rebuilt because of a natural disaster to specify that it also does not apply to residences that will be rebuilt because of a fire.

AB 474 (Garcia, Eduardo) Hazardous waste: spent brine solutions

Signed by the Governor

This bill exempts from the State's hazardous waste laws spent brine solutions that are the byproduct of treating groundwater to meet California drinking water standards, if the following conditions are met: 1) the spent brine solutions are treated before impoundment so that they are rendered nonhazardous, with the exception of selenium; 2) the appropriate Regional Water Board has approved both the treatment of the spent brine solutions and the lined surface impoundments into which the treated spent brine solutions will be transferred for dewatering; and 3) mitigation measures that have been approved by the Department of Fish and Wildlife, are used to prevent birds from coming into contact with the surface impoundments.

Governor's Message:

To the members of the California State Assembly:

I am signing Assembly Bill 474.

This bill would exempt spent brine solutions, which are the byproduct of treating groundwater, from the state's hazardous waste laws if specified treatment conditions are met.

A condition of the bill requires the Department of Fish and Wildlife to approve mitigation measures to prevent birds from coming into contact with the impoundments containing brine solutions, specifically selenium. The Department, however, remains concerned that existing methods may be ineffective in mitigating the impact to wildlife, and thus the possibility of approval of these projects remains unclear at this time and may be very difficult.

I ask the proponents of these treatment projects and the Department to keep searching for effective mitigation measures,

Sincerely, Edmund G. Brown Jr.

AB 560 (Salas) Safe Drinking Water State Revolving Fund: project financing: severely disadvantaged communities

Chapter 552, Statutes of 2017

This bill authorizes the State Water Board to provide water systems whose service areas qualify as "severely disadvantaged communities" with grants, principal forgiveness on loans, and zero percent financing on loans from the Safe Drinking Water State Revolving Fund for the design and construction of water treatment projects, if the water systems demonstrate that repaying the loan with interest would result in unaffordable water rates. This bill defines "unaffordable water rates" as an average water bill at least 1.5 percent of the median household income of the

service area or other percentage the Board determines is appropriate to reflect funding priorities.

AB 574 (Quirk) Potable reuse

Chapter 528, Statutes of 2017

This bill requires the State Water Board to adopt, by December 31, 2023, uniform water recycling criteria for potable reuse through raw water augmentation, as defined by the bill. This bill requires the State Water Board to solicit input from various entities in developing the recycling criteria, and requires the Board to convene and administer an expert panel which is required to find that the Board's proposed criteria are protective of public health before they may be adopted, and may be reconvened after the adoption of the criteria for further study and research. This bill specifies a process that the State Water Board must follow if it finds that it cannot meet the December 31, 2023, deadline for adopting the criteria. This bill revises several statutory definitions related to potable reuse recycled water projects.

AB 589 (Bigelow) Water diversion: monitoring and reporting: University of California Cooperative Extension

Chapter 471, Statutes of 2017

This bill specifies that any water diverter who has completed an instructional course administered by the University of California Cooperative Extension (UC Extension), including passing a proficiency test on water diversion measurement devices or measurement methods is considered a "qualified individual" when installing and maintaining their water diversion measurement devices or methods of measurement for the purposes of the State Water Board's regulations requiring measurement and reporting of water diversions. This bill requires the UC Extension to develop the curriculum of the course and proficiency test jointly with the State Water Board. This bill will be repealed on January 1, 2023.

AB 619 (Dahle) Sierra Lakes County Water District

Chapter 109, Statutes of 2017

This bill provides the Sierra Lakes County Water District the authority to prevent nuisance, pollution, waste, and contamination of its drinking water sources. The bill specifically authorizes the District to adopt by ordinance new requirements on the installation and use of small aboveground storage tanks and small underground storage tanks within its service area, and prohibits the installation of new underground storage tanks within its service area. This bill makes violations of these ordinances an infraction, and allows the Sierra Lakes County Water District to seek penalties against violators.

AB 707 (Aguilar-Curry) Clear Lake

Signed by the Governor

This bill establishes the Blue Ribbon Committee for the Rehabilitation of Clear Lake (Committee) in the California Natural Resources Agency, to spearhead activities aimed at cleaning up Clear Lake. The Committee would be responsible for discussing, researching, planning, and providing oversight, regarding the health of Clear Lake. The bill specifies the membership of the Committee; including a member appointed by the Central Valley Regional Board and that the Chair of the Committee will be the Secretary of the Natural Resources Agency or his designee. The bill requires the Committee to produce an annual report to the Governor and Legislature beginning in 2019, which will define the barriers to improving water quality in the lake, and include recommendations to address those barriers.

[AB 746 \(Gonzalez Fletcher\)](#) Public health: potable water systems: lead testing: schoolsites

Chapter 746, Statutes of 2017

This bill requires community water systems, by July 1, 2019, to test for lead in the potable water systems of every public school site with a building constructed prior to 2010. This bill requires community water systems to report the results of the lead testing to the local educational agencies within a specified timeframe. If the test results indicate lead levels above 15 parts per billion, the bill requires: 1) community water systems to test the water entering the school site; and 2) local educational agencies to notify parents and guardians, and shut down any fixtures with high lead levels. Community water systems and local educational agencies are authorized to request assistance from the State Water Board or local health agencies.

[AB 1180 \(Holden\)](#) Los Angeles County Flood Control District: taxes, fees, and charges

Chapter 617, Statutes of 2017

This bill authorizes the Los Angeles County Flood Control District (District) to propose a tax to increase stormwater capture and reduce stormwater and urban runoff pollution in the district, subject to voter approval. Funds will be designated to the district, cities in the district, and eligible watershed-based programs for these purposes.

[AB 1282 \(Mullin\)](#) Transportation Permitting Task Force

Chapter 643, Statutes of 2017

This bill requires the Secretary of Transportation, in consultation with the Secretary of the Natural Resources Agency to establish a Transportation Permitting Taskforce by April 1, 2018, composed of various specified agencies. The taskforce is required to develop a structured coordination process for early engagement of all parties in the development of transportation projects to reduce permit processing time, establish reasonable deadlines for permit approvals, and provide for greater certainty of permit approval requirements. This bill requires the Secretary of Transportation to submit a report to the Legislature on the findings of the taskforce.

[AB 1328 \(Limón\)](#) Oil and gas: water quality

Chapter 758, Statutes of 2017

This bill authorizes the State Water Board and Regional Water Boards to require owners and operators of oil and gas wells to provide information relating to the chemicals in their discharge water as part of a water quality investigation. Additionally, where an oil or gas well owner or operator cannot provide the information required by the Water Boards because the chemicals are supplied by a third party vendor, the bill authorizes the Water Boards to directly require the third party vendors to provide information on the chemicals they supply.

[AB 1438 \(Committee on Environmental Safety and Toxic Materials\)](#) State Water Resources Control Board: environmental laboratories: public water systems: certificates and permits: procedures

Chapter 327, Statutes of 2017 (This bill was informally sponsored by the State Water Board).

This bill makes a number of technical statutory changes to reflect the transfer of the Environmental Laboratory Accreditation Program from the Department of Public Health to the State Water Board in 2014. Among its provisions, the bill clarifies the process that laboratories must follow to appeal permitting and enforcement actions taken by the Environmental Laboratory Accreditation Program.

[AB 1671 \(Caballero\)](#) Backflow protection and cross-connection controls: standards
Chapter 533, Statutes of 2017

This bill requires the State Water Board to adopt standards for backflow protection and cross-connection control by January 1, 2020. The bill authorizes the State Water Board to adopt the standards through a policy handbook that is exempt from the Administrative Procedure Act. The bill requires the Board to consult with various entities and to hold at least two public hearings before adopting the policy handbook. The bill requires public water systems to implement cross-connection control programs that comply with the standards adopted by the Board.

[SB 5 \(De León\)](#) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.

Signed by the Governor

This bill enacts the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which if approved by voters, will authorize the issuance of \$4 billion in general obligation bonds to finance clean drinking water and drought preparedness; expansion and restoration of parks and recreation facilities; protection of coastal and ocean resources; and climate change adaptation and resiliency.

[SB 89 \(Committee on Budget and Fiscal Review\)](#) Human services

Chapter 24, Statutes of 2017

This human services budget trailer bill makes various statutory changes necessary to implement the 2018-19 Budget Act. Among its provisions, the bill creates the “Safe Drinking Water Supplemental Benefit Pilot Program” to provide additional state funded CalFresh nutrition benefits for recipients who reside in disadvantaged communities served by public water systems that consistently fail to meet primary drinking water standards. The additional CalFresh nutrition benefits will be for the recipients to purchase safe drinking water.

[SB 94 \(Committee on Budget and Fiscal Review\)](#) Cannabis: medicinal and adult use

Chapter 27, Statutes of 2017

This budget trailer bill aligns and consolidates, into one statute, the regulation of cannabis cultivation, manufacturing, transportation, storage, and retail sale under the Medical Marijuana Regulation and Safety Act (MMRSA) and the Adult Use Marijuana Act (AUMA). Among its provisions, the bill makes consistent the roles and responsibilities of the State Water Board and Regional Water Boards under the two acts in regulating cannabis cultivation to ensure that it does not have an adverse impact on water quality or water rights.

[SB 231 \(Hertzberg\)](#) Local government: fees and charges

Chapter 536, Statutes of 2017

This bill defines the term “sewer” in the Proposition 218 Omnibus Implementation Act to include all facilities and works needed for collection and disposal of sewage, industrial waste, and surface and storm waters. This bill includes numerous legislative findings and declarations regarding the interpretation of the term “sewer” under Proposition 218.

[SB 252 \(Dodd\)](#) Water wells

Chapter 538, Statutes of 2017

This bill requires cities and counties that overlie critically overdrafted groundwater basins to request specified additional information from people who apply for new water wells located within the critically overdrafted groundwater basin. This bill requires the cities and counties to

make this information publicly available. This bill will become inoperative on January 30, 2020, and will be repealed on January 1, 2021.

SB 372 (Cannella) San Joaquin River Exchange Contractors Groundwater Sustainability Agency

Chapter 357, Statutes of 2017

This bill creates the San Joaquin River Exchange Contractors Groundwater Sustainability Agency, as a special act water district, in portions of Fresno, Madera, Merced, and Stanislaus Counties. This bill requires the San Joaquin River Exchange Contractors Groundwater Sustainability Agency to be the exclusive groundwater sustainability agency under the Sustainable Groundwater Management Act within its area, requires the Agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management, and requires the Agency to enter into an agreement with other local agencies for purposes of coordinating groundwater sustainability plans within the Delta-Mendota Subbasin. This bill specifies the San Joaquin River Exchange Contractors Groundwater Sustainability Agency's boundaries, governance and board of directors, and powers and authorities. This is an urgency bill.

SB 427 (Leyva) Public water systems: community water systems: lead user service lines

Chapter 238, Statutes of 2017

This bill makes various technical, cleanup changes to Chapter 731, Statutes of 2016 (SB 1398, Leyva) which requires public water systems to compile inventories of lead user service lines in their distribution systems, and to submit timelines for replacing these lines to the State Water Board. Among its provisions, the bill: 1) adds specific deadlines to provisions of Chapter 731/2016 that requires public water systems to provide certain plans and information to the State Water Board, and 2) specifically authorizes the State Water Board to apply and enforce provisions of Chapter 731/2016.

SB 507 (Hueso) Tijuana River Valley

Chapter 542, Statutes of 2017

This bill amends the California Wildlife, Coastal, and Park Land Conservation Act (Proposition 70, 1988) to allow \$2.09 million from the bond measure to be used to update the Tijuana River Valley Recovery Team's "Recovery Strategy: Living with the Water", for specified studies, and for the development of a campground in the Tijuana River Valley.

SB 541 (Allen) Water: school facility water capture practices

Signed by the Governor

This bill requires the State Water Board in consultation with the Regional Water Boards and the Division of the State Architect within the Department of General Services, to report to the Governor and the Legislature by January 1, 2019, their recommendations on best design practices for water capture and use that can generally be applied to all new, reconstructed, or altered public schools, including school grounds. The report is to be posted on the State Water Board and State Department of Education websites when completed.

SCR 80 (Dodd) Water Professionals Appreciation Week

Chapter 159, Statutes of 2017

This measure proclaims the first week of October, beginning on the first Saturday of the month and ending on the Sunday of the following weekend, Water Professionals Appreciation Week,

and encourages public water and wastewater agencies to offer tours, open houses, and other events during that time to educate Californians on the important functions of those agencies.

HIGH PRIORITY BILLS –VETOED

AB 247 (Garcia, Cristina) Public health: childhood lead poisoning: Lead Advisory Task Force

Vetoed by Governor

This bill would have required the Office of Environmental Health Hazard Assessment to establish a taskforce to review and advise on policies and procedures to reduce childhood lead poisoning, and to develop a recommended regulatory agenda that would identify sources of lead and ensure that regulatory standards are protective of public health. The taskforce would have been comprised of 20 prescribed members, including one member from the State Water Board. This bill would have required, beginning April 1, 2018, that the taskforce meet quarterly and publish the recommended regulatory agenda by April 1, 2020, and to update it by April 1, 2022.

Governor's Message:

I am returning Assembly Bill 247 without my signature.

This bill creates a twenty-one member Lead Advisory Task Force to review and advise on state policies and procedures to reduce childhood lead poisoning and to suggest a regulatory agenda that would identify sources of lead and ensure standards are protective of public health.

The responsibilities of this task force would be duplicative of ongoing work by the Office of Environmental Health Hazard Assessment, the Department of Public Health, the State Water Resources Control Board, and the Department of Toxic Substances Control. Coordination and evaluation of procedures to reduce childhood lead poisoning is being accomplished administratively amongst these agencies so there is no reason to divert resources to a task force.

Sincerely, Edmund G. Brown Jr.

AB 313 (Gray) Water

Vetoed by the Governor

This bill would have transferred the responsibility for conducting adjudicative hearings on certain types of water rights enforcement actions from the State Water Board to a Water Rights Division in the Office of Administrative Hearings, which would have been created by the bill. The bill would have required that the hearings be conducted by an administrative law judge in the Office of Administrative Hearings, and that the administrative law judge would make a recommendation to the State Water Board or the Executive Director of the Board, depending on the type of hearing, which would then make a final decision to adopt, modify or reject the recommendation. The bill specified that if the Board fails to act on the administrative law judge's recommendation within 30 days, the administrative law judge's recommendation would be deemed adopted by the Board.

Governor's Message:

To the Members of the California State Assembly:

I am returning Assembly Bill 313 without my signature.

This bill would transfer the responsibility for conducting adjudicative hearings of certain water rights enforcement actions from the State Water Resources Control Board to a new Water Rights Division in the Office of Administrative Hearings.

While I acknowledge the author's intent to increase fairness and transparency in enforcement actions taken by the Board, the bill would not work as intended. It would be difficult to recruit and retain qualified water lawyers to meet the rigid requirements of the bill. The bill creates a new division that would only conduct limited types of water right hearings, which may further complicate the process. The costs would be borne only by some water right holders but not others, regardless of who benefits.

I recognize, however, that administrative law judges can be effective in complex adjudicative matters, as evidenced in other state agencies. Therefore, I am directing the Secretary of the Environmental Protection Agency to evaluate the potential role for administrative law judges and provide a recommendation on improvements to the Board's hearing process by January 1, 2018.

Sincerely, Edmund G. Brown Jr.